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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,302	01/26/2004	Glen R. Chartier	RTEE 2 13410-1	8267
7590	07/07/2005		EXAMINER	MEISLIN, DEBRA S
E. Kent Daniels, Jr. Fay, Sharpe, Fagan, Minnich & McKee, LLP Seventh Floor 1100 Superior Avenue Cleveland, OH 44114			ART UNIT	PAPER NUMBER
3723				
DATE MAILED: 07/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/764,302

Filing Date: January 26, 2004

Appellant(s): CHARTIER ET AL.

E. Kent Daniels, Jr.
For Appellant

MAILED
JUL 7 2005
Group 3700

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 21, 2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The amendment after final rejection filed on April 21, 2005 has been entered.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1, 4 and 7 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

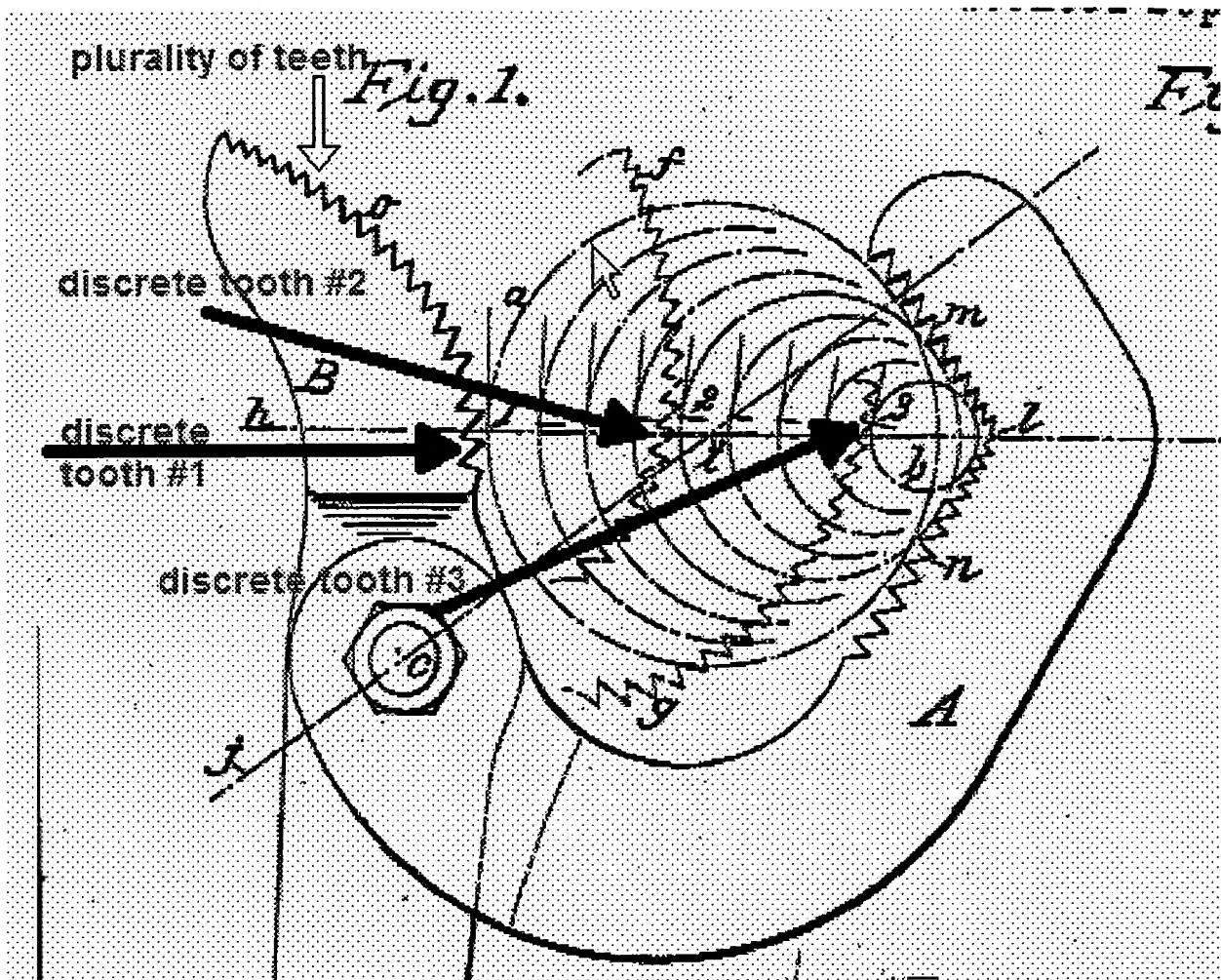
460,230	GUNNARSON	9-1891
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(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

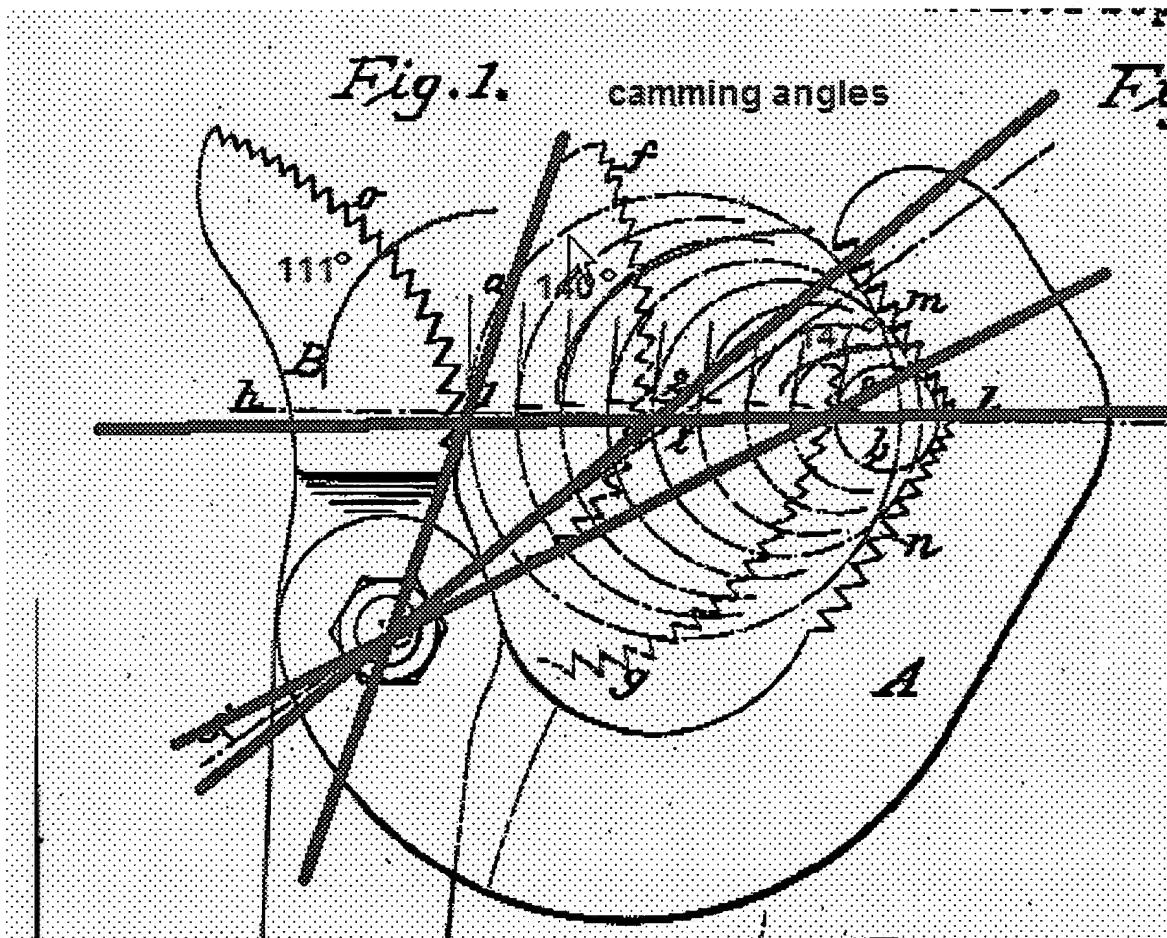
Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gunnarson.

Gunnarson discloses a wrench for gripping any one of a plurality of workpieces in a progressive sequence of different diameters as claimed by applicant.



Above is an enlargement of figure 1 of Gunnarson. The plurality of teeth are shown as lying along the fixed jaw "B". Discrete teeth (#1, #2, #3) are pointed out to show at least three of the plurality of discrete teeth wherein each discrete tooth is for engaging one of a plurality of workpieces having different diameters. The remaining discrete teeth (unnumbered) lie between teeth "#1" and "#2" and between teeth "#2" and "#3". Teeth are located between adjacent ones of the discrete teeth (the teeth between the discrete teeth that do not engage a workpiece) since not all of the teeth engage a

workpiece. Note that Gunnarson discloses nine workpieces and twenty teeth on the fixed jaw.



Best Available Copy

Above, Gunnarson discloses camming angles for at least three of the discrete teeth with corresponding workpieces.

Additionally, Gunnarson discloses "said teeth including a plurality of discrete teeth, each discrete tooth being for providing single tooth contact with a different one of a plurality of cylindrical workpieces" and "just the one said plurality of discrete teeth provided on said fixed jaw for the workpiece of a given diameter". The discrete teeth

are shown, above, wherein there is single tooth contact (by either tooth #1, tooth #2, or tooth #3) of the discrete teeth provided for contact with a different one of a plurality of cylindrical workpieces and just one (tooth #1, tooth #2, or tooth #3) of said plurality of discrete teeth provided on said fixed jaw for the workpiece of a given diameter. The remaining teeth in Gunnarson define the teeth between adjacent ones of the discrete teeth. This is similar to applicant's invention wherein teeth "50" also engage the workpiece.

(11) Response to Argument

Gunnarson discloses a wrench for gripping any one of a plurality of workpieces in a progressive sequence of different diameters as claimed by applicant.

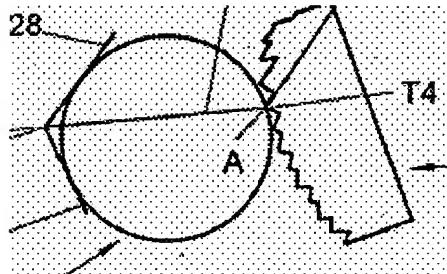
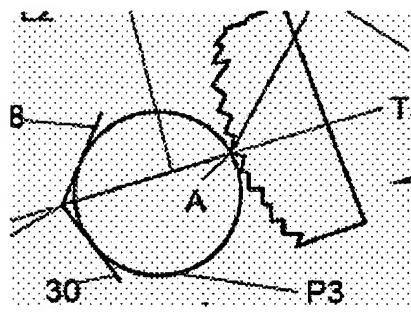
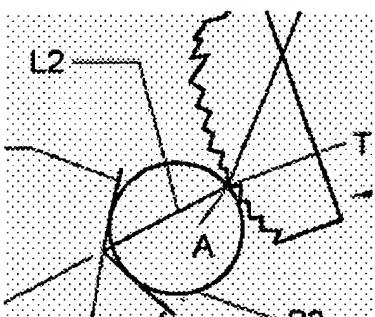
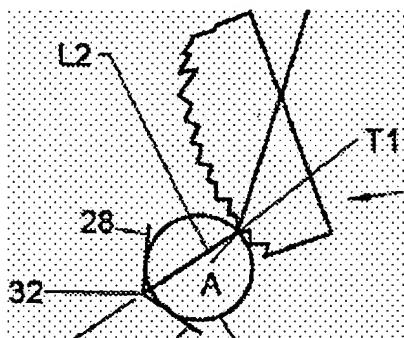
The examiner is no longer referring to Attachment "A" since the blue and red markings will not be apparent when viewed. The figures as set forth, above, will replace Attachment "A". It is noted that appellant refers to Exhibit 1 which can be found in applicant's arguments filed January 26, 2004.

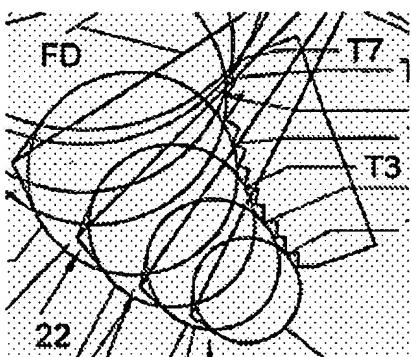
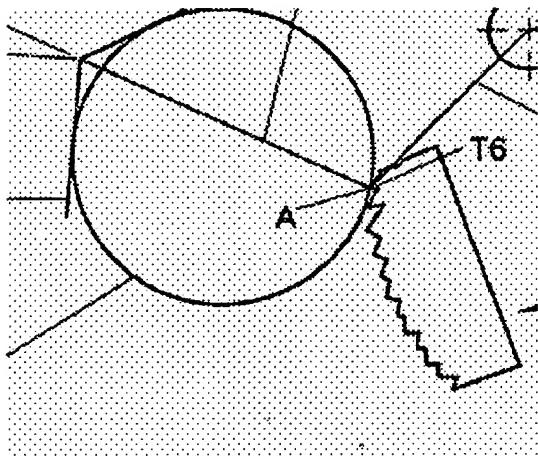
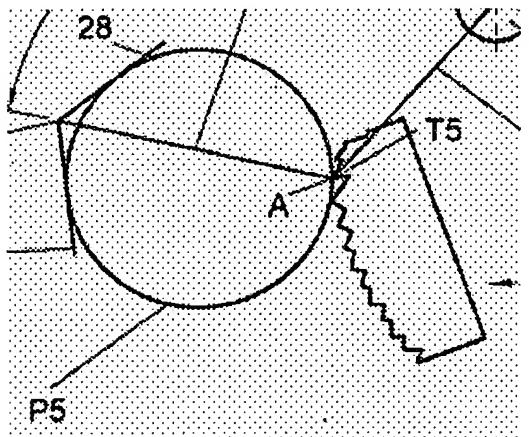
Appellant contends that figures 1 and 3 of Gunnarson are conflicting with respect to what they illustrate. Figures 1 and 3 of Gunnarson disclose different embodiments. The examiner has referred to figure 1 throughout the prosecution and remains of the opinion that figure 1 of Gunnarson discloses the claimed subject matter. It is noted, however, that the recitation with respect to figure 3 of Gunnarson, "constructed on exactly the same principle", does not preclude differences between the embodiments as evidenced by the differing handle construction.

The specification of Gunnarson need not define a plurality of discrete teeth since the drawings clearly disclose such teeth as set forth, above. Teachings may be found in any portion of the disclosure including the specification, the abstract, the drawings, and the claims.

With respect to appellant's arguments regarding "arguments based on mere measurements of patent drawings are of little value", it is respectfully submitted that the enlarged view of Gunnarson is appropriate to allow the examiner to clearly point out the structure being referred to. The examiner is not using measurements derived from Gunnarson. Consequently, citations referencing measurements are not on point. In addition, for every decision made by the courts in one direction, contradictory decisions may be found in other decisions. Consequently, each case will be examined on its own merits.

Appellant appears to be arguing that Gunnarson discloses plural teeth engaging the workpiece and not a single tooth. It is noted that applicant's invention also discloses plural teeth that engage the workpiece, wherein one of the teeth includes a discrete tooth. Note figures 6A-F and figure 7 of the instant application, shown below, wherein a discrete tooth and an additional tooth engages the workpiece just as the teeth of Gunnarson do.





Page 5, lines 13-17 of the instant application also define discrete teeth and additional teeth to promote gripping as set forth below.

T7 also accommodates gripping a 1-1/2 inch pipe fitting. While it is not necessary to provide any additional teeth on jaw member 18 other than the discrete teeth T1-T7, it is preferred to provide 15 additional teeth 50 between adjacent ones of the discrete teeth T1-T5 to promote the gripping capability of the wrench with regard to pipe fittings, rod and other objects and workpieces in addition to the series of pipes. While reference herein is with regard to the foregoing nominal pipe sizes, it

The claims define a plurality of teeth including a plurality of discrete teeth. The claims do not preclude the use of additional teeth and clearly sets forth a plurality of teeth and a subset of said plurality of teeth which includes a plurality of discrete teeth.

It is noted that the specification of Gunnarson need not define a plurality of discrete teeth since the drawings clearly disclose such teeth as set forth, above. Teachings may be found in any portion of the disclosure including the specification, the abstract, the drawings, and the claims.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Debra S. Meislin
Primary Examiner
Art Unit 3723

dsm
June 29, 2005

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